



PTO/SB/26 (09-04)

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**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)

00025.04CON

In re Application of: RABINOWITZ ET AL.

Application No.: 10/766,647

Filed: JANUARY 27, 2004

For: DELIVERY OF ANALGESICS THROUGH AN INHALATION ROUTE

The owner, ALEXA PHARMACEUTICALS, INC., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,855,310 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

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- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
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2. ☒ The undersigned is an attorney or agent of record. Reg. No. 58,079


Signature

JUNE 30, 2006

Date

KATHERINE LOBEL-RICE
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07/07/2006 AWONDAF1 00000031 10766647
FC:1814 -130.00 OP
Repln. Ref: 12/27/2006 CKHLOK 0007594400
DAH:195117 Name/Number:10766647
FC: 9204 \$130.00 CR